

**Liaison Meeting
10:15 a. m. – February 15, 2006
Room 330, Transportation Building
Bismarck, North Dakota**

Attendees

There were forty (40) attendees representing nine (9) companies, along with representatives from the Associated General Contractors (AGC), Laducer & Associates, and the North Dakota Department of Transportation (Department). The meeting was held in Room 330, of the Transportation Building, and broadcast via the Department's video conferencing sites set up at our district offices in Grand Forks, Fargo, Valley City, Devils Lake, Minot, Williston, and Dickinson.

Dave Sprynczynatyk, Director, North Dakota Department of Transportation, welcomed everyone to the meeting. Introductions were made in all locations.

Dave Sprynczynatyk, Director, Department of Transportation - Status of Federal Funding

In August 2005, President Bush signed into law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). This new law establishes extensive new resources and opportunities to advance highway safety throughout the country.

The North Dakota Department of Transportation's (Department) level of funding for highway projects in 2006 is \$305 million. The increase is largely due to the Memorial Bridge project scheduled to be bid on April 28, 2006. The Department will continue to monitor job costs throughout the year. This could result in some projects moving to future bid openings and priority projects being moved up.

Dave Sprynczynatyk, Director, Department of Transportation - DBE Program

The approved FY 2006 DBE Goal is 8.12%. The Department has decided to set goals from the beginning of the construction season in an attempt to achieve the goal early and level out for the rest of the year.

Following the November 18, 2005, bid opening the DBE participation achieved was 3.2%. The percent achieved was lower than expected, forcing the Department to adjust some individual project goals for the February and March bid openings. The Director stressed to the industry the need for them to aggressively work at getting participation. Federal Highway Administration (FHWA) is watching the goal and achievements closely.

Question: Does the Western States Paving/Washington Department of Transportation ruling in the 9th Circuit Court of Appeals have any impact on our DBE program?

Answer: No. North Dakota is in the 8th Circuit Court of Appeals.

Question: Why is Wyoming able to have a race-neutral program?

Answer: Wyoming has a successful race-neutral program due to one DBE prime contractor who recently received so much work over a 3 year period that they have graduated from the program.

Question: Does the Department know the name of the DBE prime contractor?

Answer: No.

Darcy R. Rosendahl, Director, Office of Operations - Construction Inflation

The Consumer Price Index shows inflation at 3.4%. North Dakota has a 12% overall inflation rate. Due to the high inflation rate, some projects may move to different bid opening dates or even into FY 2007 or FY 2008. Mr. Rosendahl cautioned all contractors to monitor the Department's web page for changes to bid opening and project information.

Cal Gendreau, Construction Services - Fuel Escalation Clause

The construction staff met with a group of contractors to develop a list of concerns regarding changes to the fuel escalation clause. Two of the issues that were addressed were the subcontractor trickle down effect and adjustments made timely throughout the life of the contract. The construction office is drafting a provision that will adjust for the rise or fall of fuel prices. The construction office will present the draft provision to the group for comments.

Question: Has the Department determined if they will allow contractors to choose to participate or not participate?

Answer: Some states allow contractors to opt in or opt out of the fuel escalation clause at the Pre-Job Conference. The group has mixed feelings regarding the issue of opting in or out. No decision has been made.

Cal Gendreau, Construction Services - Subcontractors Markup

Prime contractors have been marking up the dollar amounts on extra work given to subcontractors, making the subcontractors 100% responsible for all costs. The Department was asked to specify the extra work when there was no bid item. In the past district offices have negotiated the costs with the prime contractors. The Construction Office has been asked to set a markup price so payment estimates will be quicker to prime and sub contractors.

Deb Igoe, Civil Rights Program Manager - Electronic Sign-In Process

An electronic sign-in process was implemented with the February bid opening. The Department had 19 firms sign in, 14 of these firms advertised in the Supportive Services Newsletter. The advantages of using the electronic sign in process are:

- Firms are able to sign in 7 days prior to the bid opening
- Firms can sign in 24 hours a day during the 7 day period
- Firms can sign in from anywhere that has internet access
- The login and password is the same as the one used to order plans and proposals
- Firms will get a confirmation email if they have entered an email address to accept one.

If a prime contractor wishes to bid paper only, they can call the Civil Rights Office by 10:30 a.m. the morning before the bid opening and they will sign you in.

The sign-in report will look similar to the old version that used to be available in the Supportive Services Room at the Doublewood. The Department encourages all contractors to load the free, most current version of Adobe Acrobat from our web page. Having the most current version will allow you to view the report without any problems. Because of the electronic sign-in the Department was able to move the timeframes for quoting and submitting quotes back. This allows each group to have an additional hour. The new timelines are:

DBE AND NON-DBE	<u>MUST CEASE</u> QUOTING	<u>MUST TURN IN</u> QUOTES
Suppliers, brokers, vendors, regular dealers, and manufacturers	2:00 p.m. (Central)	3:00 p.m. (Central)
Subcontractors under \$500,000	5:00 p.m. (Central)	6:00 p.m. (Central)
Subcontractors over \$500,000	8:00 p.m. (Central)	9:00 p.m. (Central)

The Department is open to any and all suggestions the industry may have after using the electronic sign-in.

The Department has upgraded the Expedite bidding program. For the April bid opening an upgrade to the Expedite Program will need to be downloaded in order to bid electronically. The upgrade is free of charge and will be available on March 20, 2006.

Question: Will more information be required from contractors?

Answer: No. The new upgrade is user friendly, has more folders and allows the contractor to clearly see that they have completed the areas.

Deb Igoe, Civil Rights Program Manager - DBE Program Manual

The DBE program manual is now available online at:

<http://www.state.nd.us/dot/docs/civilrights/DBEProgram9-21-05TAG.pdf>

Question: How can the Department increase previously set goals?

Answer: The Goal Setting Committee evaluates upcoming projects for bid items that a DBE company can quote. The potential goal can range anywhere from 5 – 30%. The committee usually sets the goal for as little as 1/3 – 1/2 of the potential on the project. Management reviewed the bid items and decided to increase the goal.

Question: How does the Department rationalize increasing the project goals when the DBE quotes are not there?

Answer: Part of the DBE program is to challenge the prime contractors to establish contact with the DBEs.

Question: Does the Department have the same amount of DBEs certified as this time last year?

Answer: Yes. The Department has 80 – 100 certified DBEs. At our last DBE Certification Board Meeting, seven DBE applicants were interviewed.

Question: Is the Department denying any applicants?

Answer: No. Most of the DBE applicants are viable businesses.

Question: What is the Department's process on Good Faith Efforts, bid differential analysis?

Answer: The bid analysis process does not have a set rule. The size of the project, the DBE goal on the project and the percent achieved, are all looked at during the Good Faith Efforts process.

Conclusion

Grant asked if anyone had any further questions. No questions were asked.

The next meeting will be March 8, 2006, from 10:15 – 12:00 pm.